

Responsiveness Summary - Marina Del Rey Toxic Pollutants
Comment Due Date: September 19, 2005

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| 1. City of Los Angeles-(City of Los Angeles) |
| 2. City of Los Angeles Bureau of Sanitation –(City of Los Angeles BOS) |
| 3. Sanitation Districts of Los Angeles County-(County Sanitation District) |
| 4. Department of Transportation-(Caltrans) |
| 5. County of Los Angeles, Department of Public Works-(Public Works) |
| 6. Heal the Bay-(HTB) |

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| 1.1 | City of Los Angeles | 9/19/05 | <p>Copper Loading in the Water Column From Boats: Copper inputs due to passive leaching of anti-fouling paint from wetted hull surfaces and underwater hull cleaning of recreational boats to Marina del Rey back basins were estimated to be approximately 3,693 lb/year and 47.6 lbs/year of dissolved copper, respectively. This compares with 34.3 lb/year of copper from TSS inputs to the Back Basins during an average rain year. Thus, boats contribute over 100 times the runoff amount of copper loading. It is likely that addressing the boat source could alleviate the copper problem in the back Basins.</p> | <p>It must be noted that these inputs are to the water column and <u>not</u> the sediment. The TMDL acknowledges that there is insufficient data to quantify the contribution of boating activities to copper loading to the sediment, and requires a special study to make this determination.</p> |
| 1.2 | City of Los Angeles | 9/19/05 | <p>Use of ERL for PCB WLA when Sediment Concentrations are Below Consensus Guidelines: In the Staff Report, RWQCB concluded that there was no impairment for PCBs in the sediment based on criteria from the State's listing/de-listing Policy.</p> | <p>The WLA for PCBs in sediment is included to address the fish tissue impairment for PCBs. Hydrophobic compounds such as PCBs are generally associated with organic matter bound in the sediment. Direct uptake of the contaminated sediment by filter and benthic feeders transmits these pollutants up the food chain via bioaccumulation. Thus removal of the sediment listing while a fish tissue impairment still exists will be premature.</p> |
| 1.3 | City of Los Angeles | 9/19/05 | <p>Inappropriate Use of Sediment Quality Guidelines to Calculate PCB WLA to Address Fish Tissue: Sediment quality guidelines such as ERLs were developed to address the issue of toxicity of pollutants, not on concentrations of pollutants in fish tissue.</p> | <p>PCB in sediment was not delisted (See response to 1.2). Therefore the use of sediment quality guidelines to calculate the PCB WLA is appropriate.</p> |
| 1.4 | City of Los Angeles | 9/19/05 | <p>"The consent decree also prescribed schedules for certain TMDLs, and according to this schedule,</p> | <p>Comment noted. The appropriate revisions will be made to the staff report.</p> |

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| | | | <p>USEPA must either approve a state TMDL for Analytical Units 55 and 57 or establish its own, by March 22, 2006.”</p> <p>Request: should read as follows “ for Analytical Units 54 and 56.....”</p> | |
| 1.5 | City of Los Angeles | 9/19/05 | <p>Table 1-2: the title of the table could be interpreted as the entire Marina being listed on the 303(d) list.</p> <p>Request: Table 1-2 should be titled “2002 303(d) list of metals and organic compounds impairments for Marina Del Rey Back Basins (Basin D,E,F)”</p> | Comment noted. The appropriate revisions will be made to the staff report. |
| 1.6 | City of Los Angeles | 9/19/05 | <p>Since the TMDL is being developed for the back basins, a special note should be made to identify those areas that drain to the back basins.</p> <p>Request: Similar to the Marina del Rey Bacteria TMDL, an asterisk should denote areas 1B and 2 do not drain to the back basins.</p> | Comment noted. The appropriate revisions will be made to the staff report. |
| 1.7 | City of Los Angeles | 9/19/05 | <p>“There is no indication that CTR standards are exceeded for any organic pollutants in Marina del Rey. However this may be as a result of the use of analytical methods with detection limits that are below CTR standards,”</p> <p>Request: should read as follows “...with detection limits that are above CTR standards.”</p> | Comment noted. The appropriate revisions will be made to the staff report. |
| 1.8 | City of Los Angeles | 9/19/05 | Change “fish tissue analysis analyses” to “fish tissue analyses” | Comment noted. The appropriate revisions will be made to the staff report. |
| 1.9 | City of Los | 9/19/05 | “Table 3-2: Numeric Targets for total PCBs in the | Comment noted. The appropriate revisions will be made to the |

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| | Angeles | | <p>water column Interim 0.00017 Final 0.03”</p> <p>Request: should read as follows “Interim 0.03; Final 0.00017”</p> | <p>staff report. The interim and final numeric targets were inadvertently reversed in the staff report, but appear correctly in the proposed Basin Plan amendment (i.e., Attachment A to the Tentative Resolution.)</p> |
| 1.10 | City of Los Angeles | 9/19/05 | <p>Due to method detection limit, the not detected values may have potential bias for mass emission.</p> <p>Increase residential and commercial development in the surrounding area may contribute to increased water usage and discharge; hence, loading may be greater than anticipated.</p> <p>Air deposition should be considered as a source of metal contribution.</p> | <p>Comment noted.</p> <p>Any increase in loading will be addressed along with results from required studies at the re-opener</p> <p>Contributions from air deposition is discussed in section 4.3.2 of the staff report.</p> |
| 1.11 | City of Los Angeles | 9/19/05 | <p>First paragraph,</p> <p>Request: Change “..a wide range of storm storms ...” to “a wide range of storms...”</p> | <p>Comment noted. The appropriate revisions will be made to the staff report.</p> |
| 1.12 | City of Los Angeles | 9/19/05 | <p>The TMDL acknowledges that one contributor of pollutants comes from boating activities within the marina (Appendix B). It seems that the cost analysis in the TMDL only addresses the cost associated with treating runoff from the upstream areas.</p> <p>Request: The TMDL should also acknowledge the cost associated with implementing strategies to deal with the boating activities, which may be very costly to implement.</p> | <p>The TMDL also acknowledges that there is insufficient data to quantify the contribution of boating activities to copper loading to the sediment. It will be premature to include a cost analysis of this component when the significance as a source is still undetermined.</p> |
| 1.13 | City of Los | 9/19/05 | <p><i>“The assumption that 35% of the watershed would</i></p> | |

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| | Angeles | | <p><i>be treated by infiltration trenches and sand filters”</i></p> <p>Although it has been proven that infiltration and sand filters have a high removal rate for metals, infiltration requires specific soil conditions and requires land that may or may not exist in order to treat 35% of the watershed. This assumption relies on too many unknowns and should not be relied upon as a solution.</p> | <p>The proposed implementation strategies are presented as a potential means of compliance. Responsible agencies are encouraged to adapt, expand, or replace them as needed, in response to site-specific conditions.</p> |
| 1.14 | City of Los Angeles | 9/19/05 | <p>The ambient monitoring program should be a responsibility shared by all dischargers to the Marina, which includes not only MS4s and Caltrans but also minor and general NPDES dischargers, and industrial permittees.</p> | <p>The minor, general NPDES and industrial stormwater permittees represent a small portion of the overall load. They will be required to monitor the discharges from their facilities. The MS4 dischargers and Caltrans discharge the majority of the loading and therefore should bear the cost of ambient monitoring. In addition, Los Angeles County, as the lead permittee under the MS4, and the owner of the Marina del Rey Harbor is best positioned to conduct the sampling.</p> |
| 1.15 | City of Los Angeles | 9/19/05 | <p>Change “total and dissolved...” to “total recoverable and dissolved...”</p> | <p>Comment noted. The appropriate revisions will be made to the staff report.</p> |
| 1.16 | City of Los Angeles | 9/19/05 | <p>“Monthly representative sediment sampling shall be conducted at existing monitoring locations throughout the harbor...”</p> <p>Since the TMDL is requiring that current sampling locations be used for effectiveness monitoring, a table/map of current locations should be attached to the TMDL.</p> | <p>The Los Angeles County Department of Beaches and Harbors conducts the monthly monitoring referred to in the staff report, and could provide the necessary maps.</p> |
| 1.17 | City of Los Angeles | 9/19/05 | <p>“The water quality samples collected during wet weather shall be analyzed for total dissolved solids, settable solids, and total suspended solids, if not</p> | <p>Comment noted. The appropriate revisions will be made to the staff report.</p> |

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| | | | <p>already part of the sampling program. Sampling shall be designed to collect sufficient volumes of settleable and suspended solids....”</p> <p>Request: should read as follows. “ settleable solids...”</p> | |
| 1.18 | City of Los Angeles | 9/19/05 | As a part of the TMDL Effectiveness Monitoring, the RWQCB requires permittees to analyze the residue of both the total suspended solids and the settleable solids test. The RWQCB failed to provide test methods, which can reduce loss of pollutants while providing accurate dry weight results. The City will work with the RWQCB to resolve this issue during the development of the monitoring plan. | Comment noted. |
| 1.19 | City of Los Angeles | 9/19/05 | In the middle of the paragraph, change “Sediment testing...” to “Sediment toxicity testing...” | Comment noted. The appropriate revisions will be made to the staff report. |
| 1.20 | City of Los Angeles | 9/19/05 | The RWQCB has required permittees to perform a toxicity identification evaluation (TIE) on sediment. There is currently no approved method to perform a TIE on sediment. Since a TIE is essentially an extensive research project, the City expects to work with the RWQCB to agree on methods that are scientifically and statistically reliable. | Comment noted. |
| 1.21 | City of Los Angeles | 9/19/05 | The City request the RWQCB to: 1) identify alternative and less expensive implementation technologies which are equally or more effective; 2) to work with the City in developing less costly implementation plans; and 3) to acknowledge additional costs to land acquisitions. | Regional Board staff will work with responsible agencies to develop cost effective implementation strategies. |
| 1.22 | City of Los Angeles | 9/19/05 | The current approach in Sections 4 and 5 of the draft Mdr TMDL is to set targets and allocations based | This TMDL addresses sediment impairments. Leaching and re-suspension of pollutants from sediment is a potential source to |

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| | | | <p>on new inputs from outside the marina, while ignoring the contribution of in-place sediments and legacy pollutant leaching and resuspension. The City requests the Source Assessment and Linkage Analysis sections (4 and 5) be expanded to include contributions from in-place sediments.</p> | <p>the water column, but would reduce the pollutant concentrations in sediment, The Source Assessment section addresses the sources of these sediment-bound pollutants. Also, see response to Heal the Bay comment No. 6.1.</p> |
| 1.23 | City of Los Angeles | 9/19/05 | <p>It is recognized in the TMDL that local data was not available in this application of PLOAD and that, instead these event mean concentrations (underpinnings of the model) are values derived from other Los Angeles-area locations. No model calibration results were presented and there was no validation of model predicted results. The City requests the RWQCB to present model calibration and model validation results.</p> | <p>The data used in the PLOAD model included data from the adjacent Ballona Creek watershed. Calibration and validation of this model can be pursued to further refine the total suspended solids loading estimate. The Regional Board will re-consider the waste load allocations 6 years after the effective date, and before permittees are required to meet waste load allocations.</p> |
| 2.1 | City of Los Angeles BOS | 9/19/05 | <p>The problem statement states that “Marina del Rey Harbor is on the Clean Water Act Section 303(d) list for the introduction to the staff report states that scope of the TMDL is limited to “Marina del Rey’s Back Basins (Basins D, E and F)” the problem statement in Attachment A should be changed to state that the scope of the TMDL is limited to the aforementioned Back Basins.</p> | <p>Comment noted. The appropriate revisions will be made to the Basin Plan Amendment.</p> |

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| 2.2 | City of Los Angeles BOS | 9/19/05 | The interim target for total PCB's in the water column is 0.03ug/L. The Minimum Levels (MLs) listed for various PCB Aroclors in table 2d of Appendix 4 of the Policy for Implementation of Toxics Standards for Inland surface Waters, Enclosed Bays, and estuaries of California are 0.5 ug/L. The specified MLs are for the most sensitive and only method certified by the California Department of Health services, Environmental Laboratory Accreditation Program (ELAP). As stated in Attachment A, the purpose of having interim limits is to allow them to be met by current analytical methods; therefore, either the State of California should certify analytical methods with required sensitivity or amend to document to reflect the capabilities of currently certified methods | The TMDL requires an evaluation of low detection level techniques for contaminants, which currently have detection limits above CTR standards. It is foreseeable that the PCB interim target of 0.03 ug/l will be attainable in the near future. |
| 2.3 | City of Los Angeles BOS | 9/19/05 | The attachment states an "ambient monitoring program is necessary to assess water quality throughout Marina del Rey Harbor." Water quality monitoring should be confined to the 303(d) listed areas. | Given the hydrologic connection between the back basins and the rest of the harbor, it is necessary to conduct monitoring throughout the harbor to ensure that other areas are not impaired. |
| 2.4 | City of Los Angeles BOS | 9/19/05 | ELAP does not certify laboratories of EPA Method 1640. SWRCB and RWQCB should work with the EPA and CA Department of Health Services to provide certification of methods that are recommended for use in regulatory programs. | This will be addressed when the monitoring plan is reviewed. |
| 2.5 | City of Los Angeles BOS | 9/19/05 | Sediment monitoring locations should be confined to the 303(d) listed impaired areas. Chemistry and toxicity analyses of sediments should both be performed on a semi-annual basis. | Given the hydrologic connection between the back basins and the rest of the harbor, it is necessary to conduct monitoring throughout the harbor to ensure that other areas are not impaired. |

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| 2.6 | City of Los Angeles BOS | 9/19/05 | Change settable to settleable. | Comment noted. The appropriate revisions will be made to the staff report. |
| 2.7 | City of Los Angeles BOS | 9/19/05 | Since the Marina del Rey Back Basins are sheltered from the flow from Ballona Creek, the settleable and suspended solids concentrations of these waters, during rain events, may not be high enough to collect a sufficient amount of sediment for analyses of targeted analytes. The sentence should be changed to sampling shall be designed to make a good faith effort to collect | Responsible agencies should endeavor to collect samples of sufficient volume to allow for sediment analysis or investigate alternative monitoring or analytical techniques to allow for the quantification of targeted analytes. |
| 2.8 | City of Los Angeles BOS | 9/19/05 | The sampling frequency should be changed from monthly to semi-annual. Historical monitoring data from Santa Monica Bay show that changes in sediment pollutant levels occur very slowly. Sediment monitoring should be done before and after the rainy season. | The TMDL requires that initial sediment toxicity monitoring be performed quarterly during the first year, and semi-annually thereafter. |
| 2.9 | City of Los Angeles BOS | 9/19/05 | While accelerated toxicity testing may be appropriate in a dynamic media such as wastewater, it is not appropriate in this situation. Sediment toxicant concentrations do not change rapidly enough to warrant six tests over 12 weeks. This requirement should be removed | The accelerated toxicity testing was added to the Ballona Creek and Estuary Toxic Pollutant TMDL in response to the City of Los Angeles BOS's comment that monitoring labs should have the option to confirm toxicity before proceeding with the TIE, so that unnecessary work due to a false positive test result can be avoided. The City's earlier comment dated May 12, 2005 appears to be inconsistent with the comment provided on September 19, 2005. However, in response to this more recent comment, the TMDL will be revised to clarify that this is an option not a requirement. Responsible parties have the option of forging accelerated toxicity testing and conducting a TIE directly following an indication of toxicity. |

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| 2.10 | City of Los Angeles BOS | 9/19/05 | The City of Los Angeles would like to eliminate the 28-day amphipod test and implement the 10-day amphipod test. The 28-day amphipod test is excessively long. Acute test are designed as short-term exposure periods that measure lethality. Due to the long exposure time test results will take 30 days or longer, from the day the test was started, to be reported and if test acceptability criteria (TAC) are not met, and the test has to be repeated, it could take up to 60 days. Also in the case where accelerated testing is initiated it could take 9 weeks to complete the accelerated testing if a test is started weekly, and all tests meet TAC or 14 weeks if tests are started every 2 weeks. The last option does not meet the 6 tests in 12 weeks requirement. If ten days tests are chosen the results could be reported in two weeks and also meet the 6 tests in 12-week requirement. | Responsible agencies have the option of conducting the 28-day amphipod test or the 10-day amphipod test. The TMDL will be revised to make this clear. |
| 2.11 | City of Los Angeles BOS | 9/19/05 | The City of Los Angeles would like to replace the bivalve embryo test with the abalone larval development test. | Regional Board staff consider the bivalve test to be more ecologically relevant. |
| 2.12 | City of Los Angeles BOS | 9/19/05 | The City of Los Angeles believes that a TIE trigger of less 90% survival in the amphipod tests is too stringent and that less than 80%, a more common value used to indicate toxicity, is more appropriate. This measure of toxicity has been used before (EPA/600/R-94/025) and has shown to represent a 90% power to determine statistical significance in survival between control and sample. | The TMDL will be revised to reflect that a TIE will be triggered if the results of any two results of the accelerated tests are less than 80% survival. |

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| 2.13 | City of Los Angeles BOS | 9/19/05 | The City of Los Angeles would like to request an approved procedure/methodology for conducting marine sediment TIEs. The methods listed appear to be modified liquid Phase I TIE procedures, which has questionable applicability to sediment testing. | The Executive Officer will approve procedures for conducting marine sediment TIEs prior to commencement of the monitoring program. |
| 2.14 | City of Los Angeles BOS | 9/19/05 | <p>Currently the TMDL states that “Toxicity shall be indicted by an amphipod survival rate of 70% or less in a single test.”</p> <p>Toxicity should be expressed relative to a control group. Therefore, a better definition would be to state that “Toxicity shall be indicated by two criteria being met concurrently:</p> <ol style="list-style-type: none"> 1) A statistically significant decrease in survival relative to control organisms (significance determined by T-test, $\alpha=0.05$); 2) The mean survival in the sample is less than 70% of the mean control survival. <p>The problem is that test sediment survival below 70% may not be statistically different from the control survival, if the control is also low. This situation would not be indicative of toxicity, but instead may indicate unhealthy test animals or poor lab technique. This is why both criteria should be met. This result should trigger repeat testing rather than being considered an immediate indication of toxicity.</p> | The TMDL will be revised to reflect that toxicity will be indicated by an amphipod survival rate of 70% or less in a single test, in conjunction with a statistically significant decrease in amphipod survival relative to control organisms (significance determined by T-test, $\alpha=0.05$). |
| 2.15 | City of Los Angeles BOS | 9/19/05 | The RWQCB should demonstrate how to measure 25%, 50%, 75% and 100% of the total drainage area is meeting the waste load allocations after 7,9,11 and 15 years correspondingly. | Staff anticipates that the MS4 and Caltrans permittees will focus BMP implementation efforts on specific drainage areas until all areas comply with the TMDL. Monitoring data from the specified drainage areas must demonstrate compliance with |

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| | | | | the loading based on an areal weighting approach. For example, the annual WLA for the MS4 for copper is 2.01 kg/year. Therefore, the annual allowable loading for 25% of the total drainage area would be 0.503 kg/year of copper. |
| 3.1 | County Sanitation District | 9/19/05 | This TMDL was made available to the public on the Regional Board website on August 3, 2005. A California Environmental Quality Act (CEQA) Scoping Meeting was held on May 6, 2003, however no Public Workshop has been conducted to provide a forum for stakeholders to discuss technical issues regarding this TMDL. The Public Hearing for this TMDL is scheduled for October 6, 2005, and therefore it is unlikely that the Regional Board will have sufficient time to fully consider and incorporate written comments, and revise the TMDL prior to the Public Hearing, given that written comments are due September 19, 2005. The Districts believe additional time is required to allow for a more inclusive stakeholder process. | <p>The comment deadline allows for 18 days prior to the October 6, 2005 Board meeting for staff to consider comments and make necessary changes. Staff does not anticipate that any potential changes will be substantive or require additional public notice.</p> <p>This TMDL is very similar to the Ballona Creek and Estuary Toxic Pollutant TMDL and the Calleguas Creek Historic Pesticide and Siltation TMDLs that were adopted by the Regional Board on July 7, 2005. The stakeholders for the Marina del Rey TMDL also are stakeholders in the Ballona Creek and Estuary TMDL. The Sanitation Districts provided comments on all three TMDLs.</p> |
| 3.2 | County Sanitation District | 9/19/05 | <p>The use of ERLs as numeric targets in the TMDL is inappropriate due to their exceedingly poor predictability of toxicity.</p> <p>It has been shown in scientific studies that there is no relationship between ERLs and the threshold point of toxicity, which is why these measures should not be used as numeric targets, above which sediment is presumed to be “impaired” for that particular constituent. ERLs are unlikely to predict either sediment toxicity or actual effects in local biology.</p> | <p>The selection of the ERL values as the numeric targets is consistent with the goals of the TMDL, which are to restore beneficial uses. In order to restore beneficial uses, the numeric targets need to limit adverse effects to aquatic life. The ERLs are presumed to be non-toxic levels and pose with a high degree of confidence of no potential threat. The ERL values are lower than the ERM values, and therefore incorporate an implicit margin of safety.</p> <p>The ERLs provide a readily measurable numeric target that can be used to calculate the TMDL. While multiple lines of evidence will prove useful for assessing sediment toxicity, such</p> |

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| | | | <p>ERLs have poor capability to predict toxicity because they do not account for the bioavailability of chemicals, nor do they consider the toxicity of individual compounds.</p> | <p>an approach may not be applicable to the establishment of numeric targets.</p> <p>There is a provision in the TMDL to re-assess the numeric targets and waste load allocations within six months of the State Board adopted sediment quality objectives. In addition, the TMDL has been revised to add a special study to collect data necessary for applying a multiple lines of evidence approach.</p> |
| 3.3. | County Sanitation District | 9/19/05 | <p>Focusing simply on compounds that exceed ERLs or Effects Range-Median (ERMs) risks failure to control the actual pollutant (s) responsible for impairment.</p> <p>Most critical to the success of the TMDL is control of the pollutant(s) that cause the observed impairment. The fact that a chemical exceeds its ERL does not establish causation.</p> <p>Using the ERL or ERM as a numeric target presumes that if sediment exceeds the guideline for a particular pollutant, then that sediment will likely be toxic due to that pollutant. In reality, the congruence of an ERL or ERM exceedance with causation is a chance event. As recognized by the developers of these guidelines, ERLs and ERMs are not suitable as criteria but rather are “intended as informal (i.e., non-regulatory) benchmarks as an aid in interpretation of chemical data for sediments.</p> | See response to 3.2 |
| 3.4 | County Sanitation District | 9/19/05 | <p>The reliance on ERLs is inconsistent with the SWRCB’s 303(d) Listing Policy.</p> | See response to 3.2 |

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| | | | <p>It is clear from this that the ERM, or ERM, is being used by the SWRCB, along with other lines of evidence to indicate impairment, whereas the draft MDR Harbor Toxics TMDL employs a far more conservative measure; the exceedance of an ERL as the single line of evidence to indicate impairment of beneficial uses. The gap between these standards is unjustified; achieving sediment conditions below that which causes an observable effect should be the appropriate target.</p> | |
| 3.5 | County Sanitation District | 9/19/05 | <p>The use of ERLs to provide an implicit margin of safety is overly conservative.</p> <p>In several areas of the draft MDR Harbor Toxics TMDL, the Regional Board has justified the selection of ERLs (over ERMs) as the numeric targets by asserting the ERLs provide an implicit margin of safety (see Draft Staff Report, pgs. 20 and 30). The Regional Board has typically applied a 10% margin of safety to numeric targets in other TMDLs. The poor association between ERLs and effects (discussed above) far exceeds this standard. Notwithstanding the Districts' previous comments regarding the poor predictive capability of ERLs, their lack of relevance for demonstrating actual impairment or attainment of beneficial uses, and their inability to establish causes of impairment, the margin of safety applied in this TMDL through the selection of ERLs as the numeric targets is unjustifiably large.</p> | <p>The implicit margin of safety provided by the use of ERLs as numeric targets is applied in lieu of the 10% explicit margin of safety.</p> |
| 3.6 | County | 9/19/05 | <p>The use of ERLs as numeric targets is</p> | <p>See response to 3.2</p> |

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| | Sanitation District | | <p>inconsistent with the SWRCB's current efforts to develop Sediment Quality Objectives (SQOs)</p> <p>Although the Districts recognize that the Implementation Schedule in the draft MDR Harbor Toxics TMDL provides for a reassessment of the numeric targets and sediment waste load allocations for consistency with the SQOs six months after their adoption, it is already clear that the current use of ERLs as numeric targets is inconsistent with the SWRCB's direction. Through the use of the ERLs as numeric targets, the TMDL implies that achieving the ERL for a particular constituent represents the attainment of the narrative water quality standards (see Draft Staff Report, pg. 20) and that the measurable endpoint is the ERL itself. However, based on the SWRCB's direction in developing the SQOs, the TMDL should utilize a multiple line of evidence approach that incorporated biological effects as well as exposure endpoints. The Preliminary SQO Summary is clear in the recommended approach for evaluating sediment quality:</p> <p>The Districts once again urge the Regional Board to avoid the simple reliance upon ERLs as numeric targets and develop an iterative target based on effects-based measures (e.g., sediment toxicity and benthic community response) to incorporate a MLOE approach in the draft MDR Harbor Toxics TMDL, as advocated by the SWRCB and others in</p> | |

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| 3.7 | County Sanitation District | 9/19/05 | <p>the scientific community.</p> <p>The use of the Threshold Tissue Residue Level (TTRL) as a Fish Tissue Target is inconsistent with the SWRCB's 303(d) Listing Policy.</p> <p>The fish tissue numeric target of 5.3 ug/kg for total PCBs in the MDR Harbor TMDL is inconsistent with fish tissue evaluation guidelines for protection from the consumption of fish and shellfish in the SWRCB's 303(d) Listing Policy.</p> <p>The SWRCB Listing Policy states, "Maximum Tissue Residue Levels (MTRLs) and Elevated Data Levels (EDLs) shall not be used to evaluate fish or shellfish tissue data." (see Attachment D, <i>Water Quality Control Policy for Developing California's Clean Water Action Section 303d List</i>, pg. 20). The draft TMDL itself acknowledges this on page 13, so it is unclear why the TTRL (which is equivalent to the MTRL) is being used as a numeric target when it has been determined by the SWRCB that the MTRL is an unacceptable guideline to evaluate impairment in fish tissue. The TTRL fish tissue target should therefore be removed from the TMDL.</p> | <p>The TMDL based its evaluation of fish tissue data on the screening values developed by the Office of Environmental Health Hazard Assessment (OEHHA). However, the TTRL value for the fish tissue impairment was not used as a tool for determining impairment. It is to be used as an indication of progress towards the goal of restoring the aquatic life beneficial uses of the harbor. In addition, since the TTRL values are lower than the OEHHA values, they incorporate an implicit margin of safety.</p> <p>The TTRL provides a readily measurable numeric target that can be used in gauging water quality improvements.</p> |
| 4.1 | Caltrans | 9/19/05 | <p><u>Economic Analysis</u></p> <p>The economic analysis described in the TMDL staff report uses the Department's documented installation cost of infiltration and sand filter systems, and then discounts these costs. Required space for BMP installations sometimes exceeds the available land within the Department's ROW, which would require the purchase or lease of property. Besides land acquisition, the economic analysis did not consider design, permitting, environmental mitigation, or traffic control costs. These other site-specific issues may double or triple the cost.</p> | <p>The cost analysis is provided as a general estimate of the costs based on reasonable foreseeable compliance methods with the TMDL. The staff report does not discount the costs documented by Caltrans in their BMP retrofit study. The staff report compares the costs reported by Caltrans with costs calculated based on FHWA and EPA estimates then discusses possible reasons for the differences in costs based on conclusions drawn from the third party study.</p> <p>An estimation of the site-specific costs associated with land acquisition, permitting, environmental mitigation, or traffic</p> |

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| | | | <p>Although a third party study reported lower costs in other areas, the Department reported bid costs for each site in a retrofit situation , similar to those in this watershed. Furthermore, the pre-bid cost estimates, which were based on unit prices compiled from historical highway projects, were very similar to the actual costs.</p> <p>In addition to underestimating the initial cost of BMP implementation, the subject report does not consider lifecycle (operation and maintenance) costs. Our preliminary estimate to provide treatment to 40% of our drainage area (0.4% of the watershed) is a minimum of \$0.5 million (based on lifecycle unit cost for sand filters), indicating that treatment of the Marina del Rey Harbor watershed may exceed \$50 million.</p> | <p>control would be speculative and are not included in the cost analysis. Because the costs of stand-alone retrofit BMPs can be high, the staff report includes the recommendations of the third party review to combine retrofit work with ongoing construction projects.</p> <p>The staff report provides a general estimate operation and maintenance costs (see Tables 6-3, 6-4, and 6-5 of the staff report.)</p> |
| 4.2 | Caltrans | 9/19/05 | <p><u>Proposed Numeric Targets and Implementation Plan</u></p> <p>Sand filters, one of the best BMP technologies available, will not meet the strict waste load allocations assigned to the Department. Above minimal influent concentrations, Austin style sand filters producer a constant particulate copper and zinc effluent quality. Lead effluent concentrations from an Austin style sand filter are dependent on the influent concentration . Presented in the table are the irreducible minimum effluent concentrations for copper and zinc and the expected lead effluent concentration for typical freeway runoff. The table shows that even with the best available technology</p> | <p>Staff finds the minimum effluent concentrations reported Caltrans encouraging. The minimum effluent concentrations produced by the sand filter come very close to meeting the WLAs assigned to Caltrans. For example, the WLA for copper is 0.022 kg/yr and the discharge from the sand filters would be 0.024kg/yr (only off by 0.002 kg/yr). By combining such structural treatment devices with non-structural BMPs, a permittee can successfully comply with their waste load allocations.</p> |

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| | | | treating 100% of the watershed, the discharge would still exceed the waste load allocation. | |
| 4.3 | Caltrans | 9/19/05 | <p>Since average annual daily traffic (AADT) for SR-187 and SR-1 exceed 25,000 automobiles (the maximum recommended by the SWRCB and EPA), infiltration facilities should be carefully evaluated before installation to treat the Department's ROW. The AADT for SR-187 is 47,000 automobiles and the count for SR-1 is 67,000 automobiles.</p> <p>Additionally, infiltration devices have historically failed at a high rate compared to other storm water management practices. Less than half of the infiltration devices investigated in Prince George's County, Maryland, functioned properly after two years, and less than one-third functioned properly after 5 years.</p> | Staff agrees that site suitability and BMP compatibility are critical for successful and cost-effective BMP implementation. |
| 5.1 | Public Works | 9/19/05 | <p>TMDLs and 303(d) listed water bodies.</p> <p>The Draft MDR TMDL should focus strictly on the Back Basins, as they are the only water bodies within the harbor that are listed on the 303(d) list for the constituents in question. All related water quality and sediment monitoring should be confined to the Back Basins.</p> <p>Requested Action:</p> <p>Modify the "Problem Statement" on Page 2 of the Draft MDR TMDL as follows: "Marina del Rey Harbor <u>Back Basins</u> is on the Clean Water Act Section 303(d) list..."</p> | <p>The TMDL addresses impairments in the back basins of the harbor as evidenced by the waste load allocations which were derived from estimated loadings from the watersheds of Basins D, E and F.</p> <p>Basin plan amendment has been revised to make clear that the impairment in the harbor is limited to the back basins.</p> <p>With respect to limiting monitoring efforts to the back basins, Regional Board staff believe that harbor-wide monitoring is necessary given the hydrologic connections between the back basins and the rest of the harbor.</p> |

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| | | | <p>Also, revise the second paragraph under “TMDL Effective Monitoring” in Table 7-18 as follows:</p> <p>“Monthly representative sediment sampling shall be conducted at existing monitoring locations <u>in the Back Basins</u> throughout the harbor, and analyzed for copper, lead,...Sediment toxicity testing shall be conducted semi-annually, and shall include testing of multiple species...”</p> | |
| 5.2 | Public Works | 9/19/05 | <p>The use of the Effects Range-Low measures as numeric targets is inappropriate.</p> <p>We hereby incorporate by reference comments previously made by the Sanitation Districts of Los Angeles County on the Ballona Creek Toxic Pollutants TMDL</p> <p>Requested Action:</p> <p>Delay adopting the Draft MDR TMDL until it can be revised based on new sediment quality objectives being developed by the State Water Resources Control Board. Or, alternatively, replace the Effects Range-Low in the draft MDR TMDL with the Effects Range-Medium, along with other lines of evidence to measure impairment.</p> | <p>See response to 3.2</p> <p>Comments have been incorporated and will be responded to.</p> <p>The Regional Board will re-assess the numeric targets and waste load allocations for consistency with the State Board adopted sediment quality guidelines.</p> |
| 5.3 | Public Works | 9/19/05 | <p>Controlling Copper loading from boats lies outside of the County’s jurisdiction.</p> | <p>The TMDL does not require the County to control copper loading from boats.</p> |

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| | | | <p>The TMDL uses estimates for copper inputs from recreational boars in Marina del Rey based on data from the Dissolved Copper TMDL for Shelter Island Yacht Basin. However, this analysis does not take into account the possibility of the historic deposition of copper and may overemphasize the present contribution of antifouling paints from boats moored in the marina.</p> | <p>The estimates presented for copper inputs from boats were based on the number of boats in the back basins of Marina del Rey Harbor. However, it must be noted that these inputs are to the water column and not the sediment. The TMDL requires a specific study to determine the contribution of water column discharges to sediment in the harbor.</p> |
| 5.4 | Public Works | 9/19/05 | <p>The County does not regulate the use of nonfouling paints in Marina del Rey, nor does it control the methods used by private industry for underwater hull cleaning. However the County does support the expansion of programs like the California Professional Divers Association Training and Certification Program, which provides training for underwater hull cleaners in Nonpoint source pollution management and Best management Practices for hull cleaning.</p> | <p>Comment noted.</p> |
| 5.5 | Public Works | 9/19/05 | <p>Requested Action:</p> <ul style="list-style-type: none"> (a) The Regional Water Quality Control Board should conduct specific analysis to determine the annual contribution of copper from boat hulls, land use from the upper watershed, and historical deposition to the water column and sediment in the Back Basin s. (b) Revise the Implementation Cost Analysis to include costs associated with the control of copper from boat hulls. | <p>The TMDL requires responsible agencies to conduct an analysis to determine the contribution of copper discharges from boats to sediments via the water column, Regional Board staff strongly encourage responsible parties to undertake any studies they determine may be useful in refining source assessments and optimizing implementation efforts.</p> <p>It will be premature to include a cost analysis of this component when the significance as a source is still undetermined.</p> |

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| | | | <p>(c) The County encourages the Regional Water Quality Control Board to work with boat paint manufacturers on affordable and effective nonfouling boat bottom paint and with the underwater boat cleaning industry on effective Best Management Practices.</p> | <p>Comment noted</p> |
| 5.6 | Public Works | 9/19/05 | <p>Sufficient time is needed to initiate the approved monitoring program.</p> <p>The Draft MDR TMDL currently requires monitoring to begin upon the coordinated monitoring plan's approval by the Executive Officer. Based on past experience, responsible agencies need at least six months to contract with a consultant to do such work. This contracting process cannot take place without a complete scope of work, the drafting of which requires knowledge of final sampling locations, sampling frequencies, and other pertinent details derived from an approved coordinated monitoring plan.</p> <p>Requested Action:</p> <p>Revise the appropriate section in Table 7-18.2, Page 12 of the Draft MDR TMDL, under the "MS4 and CALTRANS STORM WATER PERMITS" heading as follows:</p> <p><u>"TMDL effectiveness monitoring shall commence</u></p> | <p>Contracting with a consultant should be done during the development of the monitoring plan in order to allow timely initiation of the required monitoring.</p> |

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| | | | <p>Once six months after the coordinated monitoring plan is approved by the Executive Officer, <u>ambient monitoring shall commence.</u></p> | |
| 5.7 | Public Works | 9/19/05 | <p>The proposed ambient monitoring program is inappropriate.</p> <p>The County is committed to restoring and protecting the harbor's designated beneficial uses when they become impaired. To this end, we are prepared to work with other stakeholders to improve water quality in the Back Basins. However, we cannot justify expending scarce public funds to implement a harborwide ambient monitoring program as described in the Draft MDR TMDL.</p> <p>Such a program is more appropriately undertaken by the State's Surface Water Ambient Water monitoring Program.</p> <p>Recommended Action:</p> <p>Delete all language relating to ambient monitoring in the Draft MDR TMDL.</p> | <p>Regional Board staff believe that the proposed monitoring programs are appropriate given that the back basins have a hydrologic connection to the rest of the harbor.</p> |
| 5.8 | Public Works (Attachment) | 9/19/05 | <p>Based on a review of the draft Ballona Toxics TMDL, and considering the comments offered by stakeholders at the Public Workshops, it is clear that the June 2, 2005 Public Hearing date does not allow sufficient time for all comments to be fully considered and addressed. Therefore, the Districts believe additional time is required to allow for a more inclusive stakeholder process. Due to the</p> | <p>This comment applies to the Ballona Creek Estuary Toxics TMDL.</p> |

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| | | | <p>impact this TMDL is likely to have on future sediment TMDLs in other watersheds in the Los Angeles region, the Districts strongly urge the Regional Board to delay the Public Hearing date on the draft Ballona Toxics TMDL so that stakeholders' comments can be fully considered and incorporated. The Districts' technical comments regarding the draft Ballona Toxics TMDL are provided below.</p> | |
| 5-9 | Public Works (Attachment) | 9/19/05 | <p>The use of ERLs as numeric targets in the TMDL is inappropriate due to their exceedingly poor predictability of toxicity.</p> <p>It has been shown in scientific studies that there is no relationship between ERLs and the threshold point of toxicity, which is why these measures should not be used as numeric targets, above which sediment is presumed to be "impaired" for that particular constituents. ERLs are unlikely to predict either sediment toxicity or actual effects in local biology.</p> | See response to 3.2 |
| 5.10 | Public Works (Attachment) | 9/19/05 | <p>The simple focus on compounds that exceed ERLs risks failure to control the actual pollutant(s) responsible for impairment.</p> <p>Most critical to the success of the TMDL is control of the pollutant(s) that cause the observed impairment. The fact that a chemical exceeds its ERL does not establish causation. Using the ERL as a numeric target presumes that if sediment exceeds the ERL for a particular pollutant, then that sediment</p> | See response to 3.2 |

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| | | | <p>will likely be toxic due to that pollutants. In reality, the congruence of an ERL exceedance with causation is a chance event. As recognized by the developers of these guidelines, ERLs are not suitable as criteria, but rather are “...intended as informal (i.e., non-regulatory) benchmarks as an aid in interpretation of chemical data for sediments.”</p> | |
| 5.11 | Public Works (Attachment) | 9/19/05 | <p>The reliance on ERLs is inconsistent with the SWRCB’s 303(d) Listing Policy.</p> <p>It is clear from this that the Effects Range-Median, or ERM, is being used by the SWRCB, along with other lines of evidence, to indicate impairment, whereas the draft Ballona Toxics TMDL employs a far more conservative measure; the exceedance of an ERL as the single line of evidence to indicate impairment of beneficial uses. The gap between these standards is unjustified; logic would suggest that achieving sediment conditions below that which causes an observable effect would be the appropriate target.</p> | See response to 3.2 |
| 5.12 | Public Works (Attachment) | 9/19/05 | <p>The use of ERLs to provide an implicit margin of safety is overly conservative.</p> <p>In several areas of the draft Ballona Toxics TMDL, the Regional Board has justified the selection of ERLs (over ERMs) as the numeric targets by asserting that ERLs provide an implicit margin of safety (see Draft Staff Report, pgs. 21 and 36). The Regional Board has typically applied a 10% margin of safety to numeric targets in other TMDLs. The</p> | See response to 3.5 |

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| | | | <p>poor association between ERLs and effects (discussed above) far exceeds this standard. Notwithstanding the Districts' previous comments regarding the poor predictive capability of ERLs, their lack of relevance for demonstrating actual impairment of attainment of beneficial uses, and their inability to establish causes of impairment, the margin of safety applied in this TMDL through the selection of ERLs as the numeric targets is unjustifiably large.</p> | |
| 5.13 | Public Works (Attachment) | 9/19/05 | <p>The use of ERLs as numeric targets is inconsistent with the SWRCB's current efforts to develop Sediment Quality Objectives (SQOs).</p> <p>Through the use of the ERLs as numeric targets, the TMDL implies that achieving the ERL for a particular constituent represents the attainment of the narrative water quality standards (see Draft Staff Report, pg. 9) and that the measurable endpoint is the ERL itself. However, based on the SWRCB's direction in developing the SQOs, the TMDL should utilize a multiple line of evidence approach that incorporates biological effects as well as exposure endpoints.</p> | See response to 3.2 |
| 5.14 | Public Works (Attachment) | 9/19/05 | <p>At a minimum, the Districts recommend using the ERM rather than the ERL as the interim numeric sediment chemistry measure used to derive the loading capacity and load and waste load allocations. Although ERMs were only found to predict toxicity approximately 40% of the time when evaluated against large data sets of chemical</p> | See response to 3.2 |

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| | | | <p>pollution and toxicity (O'Connor, 2004), they are at least more predictive than ERLs and are consistent with the measures required for use under the SWRCB's 303(d) listing policy for determining impairment.</p> | |
| 6.1 | HTB | 9/19/05 | <p>Implementation of this TMDL should include remediation of existing contaminated sediments and a mandatory program for routine removal of sediment build-up within the storm drain system.</p> <p>The proposed TMDL is insufficient in that it fails to address the problem of existing sediment contamination in the Harbor basins. Specifically, the proposed TMDL focuses solely on reductions in new inputs to the Harbor, completely ignoring the existing sediment contamination, which already exceeds pollutants thresholds and is causing the existing impairments.</p> | <p>The TMDL has been revised to address existing contaminated sediment. The Regional Board will issue appropriate investigatory orders or cleanup and abatement orders to achieve attainment of the numeric targets if it is determined that toxic pollutants bound in sediments are still preventing the attainment of numeric targets, at the end of the implementation period.</p> |
| 6.2 | HTB | 9/19/05 | <p>The Proposed TMDL Does Not Address The Sediment Toxicity Impairment</p> <p>The Marina del Rey Harbor Back Basins are listed on the 303(d) list as impaired for sediment toxicity. However, the MDR TMDL fails to address sediment toxicity or provide any sound scientific rationale for any decision to exclude this impairment from the TMDL. If staff is making the assumption that the listed chemicals and metals, which are being addressed under the TMDL, are the sole causes of this impairment, they must justify this assumption. Agency findings and decisions must be supported by</p> | <p>The staff report clearly states that the sediment toxicity listing will be addressed through wasteload allocations for the individual pollutants.</p> |

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| | | | substantial evidence in the record. <i>Topanga Ass'n For a Scenic Community v. County of Los Angeles</i> (1974) 11 Cal.3d 506,515. | |
| 6.3 | HTB | 9/19/05 | <p>The Proposed TMDL Does Not Include an Adequate Margin of Safety</p> <p>We support the Regional Board's use of Effects Range-Low (ERL) values as the numeric targets for sediment within Marina del Rey Harbor because the ERLs are easily measured numeric values that can function as effective indicators of healthy sediments. However, we do not agree that the use of ERLs incorporates an intrinsic margin of safety.</p> <p>In addition, other assumptions erode any intrinsic margin of safety. For instance, the Regional Board has based the waste load allocations on the annual average storm year.</p> <p>This is not a conservative assumption, especially in dry years.</p> <p>In order to establish an adequate margin of safety and obtain sufficiently protective numeric targets in the TAMD, the Regional Board should include an explicit 10% margin of safety in this TMDL. This may be calculated by multiplying all the proposed numeric targets by 0.9. The resulting lower numeric targets will act as a buffer in the event that assumptions and/or calculations within the TMDL are uncertain. The explicit margin of safety is</p> | The TMDL includes an implicit margin of safety by basing the numeric target on the lowest sediment quality guidelines. This is used in lieu of the 10% explicit margin of safety. |

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| | | | <p>necessary to <u>ensure</u> attainment of beneficial uses, as required by the Clean Water Act. 33 U.S.C. § 1313(d)</p> | |
| 6.4 | HTB | 9/19/05 | <p>The Regional Board Should Include a Plan for Compliance Monitoring</p> <p>The proposed TMDL outlines load allocations for permittees, however, there is no mention of how compliance with the TMDL will be determined. Within a year from the effective date of the TMDL, the Regional Board should develop a monitoring plan that will assist the Board and the permittees in assessing compliance.</p> <p>Without an adequate means of assessing compliance with required reductions, the regulatory goals of the TMDL process will not be met and beneficial uses may continue to be compromised.</p> | <p>Regional Board staff intend to work with responsible agencies and stakeholders to develop a compliance monitoring plan.</p> |
| 6.5 | HTB | 9/19/05 | <p>The Interim Implementation Targets Should Be Enforceable and Based on Percent Reduction of Waste Load</p> <p>We therefore urge the Regional Board to revise the current interim targets to include enforceable milestones that also provide proper incentives to achieve meaningful progress toward the final waste load allocations in a timely manner.</p> | <p>While multiple alternatives for determining compliance may exist, staff proposes that a phased, area-based reduction is appropriate for the toxics TMDL. Staff anticipates that the MS4 and Caltrans permittees will focus BMP implementation efforts on specific drainage areas until all areas comply with the TMDL. Staff believe that the interim targets would result in meaningful progress towards compliance in a timely manner.</p> |
| 6.6 | HTB | 9/19/05 | <p>The Regional Board Should Not Reconsider This TMDL Until At Least Seven Years and Only For the Purpose of Reconsidering Waste Load Allocations</p> | |

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| | | | <p>The Regional Board proposes to re-evaluate the TMDL's waste load allocations and implementation schedule six years after the effective date of the TMDL. We urge the Regional Board to move back its proposed reconsideration of the TMDL for six years until at least seven years after the effective date. This will provide the MS4 and Caltrans permittees adequate time to complete their special studies and to meet their first milestones.</p> <p>The Regional Board should not reopen and reconsider the TMDL implementation schedule. The schedule set forth in the TMDL is already lengthy and provides too much time for compliance, particularly since most of the sources are already subject to implementing and evaluating storm water controls and BMPs under other regulatory authorities.</p> | <p>All special studies are required to be submitted to the Regional Board within 5 years after the effective date of the TMDL. This allows staff a full year to review the studies and propose any applicable changes to the TMDL.</p> <p>The TMDL will be reconsidered after six years to reconsider wasteload allocations based on results of the required studies. These changes may or may not result in modifications to the implementation schedule to meet newer targets.</p> <p>The first milestone referred to will only applies to 25% of the drainage area.</p> <p>Should they choose a TMDL specific implementation strategy, the first milestone will not occur until eight years after the effective date of the TMDL.</p> |
| 6.7 | HTB | 9/19/05 | <p>The Implementation Schedule Should Be Tightened to Ensure Existing Impairments Are Addressed in a Timely Manner</p> <ol style="list-style-type: none"> 1. General industrial storm water permittees should have a maximum of five years to achieve mass-based waste load allocations for sediment. 2. General construction storm water permittees should have a maximum of five years to evaluate BMP effectiveness. 3. The Implementation Plan for MS4 and | <p>Staff believe that the Implementation Schedule is adequate in its current form. These time lines are the same as those contained in the Ballona Creek and Estuary Toxic Pollutant TMDL, which was adopted by the Regional Board on July 7, 2005. Given the small size and close proximity to the Ballona Creek watershed, the timing of the two implementation plans will allow for a coordinated strategy.</p> |

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| | | | <p>Caltrans storm water permittees Should be shortened.</p> <p>4. The non-storm water NPDES permittees should achieve the concentration-based waste load allocations within six years.</p> | |
| 6.8 | HTB | 9/19/05 | <p>Implementation Plans Prepared by Permittees Should Be Made Available for Public Comment</p> <p>The proposed TMDL implementation schedule requires the MS4 and Caltrans storm water NPDES permittees to submit an implementation plan for waste load reduction for approval by the Regional Board Executive Officer. We strongly believe that public review and comment on the implementation plan is necessary to the planning process. Moreover, as these plans will set forth milestones under the TMDL, they will affect the public in terms of how the TMDL will be implemented and the achievement of improvements in water quality and beneficial uses.</p> | <p>Staff will conduct workshops to allow for public review and comments on proposed implementation plans prior to Executive Officer approval.</p> |
| 6.9 | HTB | 9/19/05 | <p>The Interim and Final Numeric Targets for PCBs in the Water Column Are Not Supported</p> <p>The interim limit for total PCBs in the water column is derived from the CTR human health criterion for total PCBs (170 pg/L). However, the Basin Plan human health criterion for total PCBs is more stringent (70 pg/L). The more stringent criterion value should always be used in establishing TMDL numeric targets.</p> | <p>The CTR value used as the numeric target for PCB in the water column is the more current water quality objective.</p> |

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| | | | <p>Second, the proposed interim numeric limit is several orders of magnitude higher than the final limit. Under these circumstances, achievement of the interim limit will not lead to any certainty about ultimate progress towards compliance with the final target. The Regional Board should address this substantial discrepancy. Further, as the Regional Board acknowledges, detection limits for PCBs are currently higher than the final target value. The Regional Board must address this issue by updating with currently available detection limits as well as undertaking to develop lower detection limits. There is no impetus for a discharger to conduct a special study on lower detection limits unless it is required by the Board, and even then, it is unlikely that dischargers have expertise to conduct such studies. The Regional Board must address this overall issue of inadequate detection limits in general in order to ensure compliance with this TMDL, as well as other TMDLs, and to ensure the attainment and maintenance of water quality in the region.</p> <p>No rationale is provided to support the Regional Board's statement that using the TTRL method to establish a target for PCBs in fish tissue will be "an effective method for accurately quantifying achievement of the water quality objectives."</p> | <p>Use of the interim target for PCBs in the water column is an acknowledgement of the present detection capabilities of analytical methods. The TMDL requires responsible agencies to conduct studies focused on attaining lower detection limits. Regional Board staff will be involved in developing these studies.</p> <p>Given the current limitations of detecting PCBs in the water column, the fish tissue target serves as a means of tracking progress towards compliance goals.</p> |
| 6.10 | HTB | 9/19/05 | <p>The TMDL Should Include A Comprehensive Ambient Monitoring Program That Includes All Basins Within the Marina del Rey Harbor</p> | |

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| | | | <p>We strongly support the inclusion of a comprehensive ambient monitoring program in the TMDL.</p> <p>An extensive set of ambient data is necessary to refine numeric targets and implement appropriate BMPs. Therefore, we strongly support the triad approach for ambient monitoring included in this TMDL: measuring sediment chemistry, evaluating biological conditions and assessing the potential for sediment toxicity all are extremely important to fully understanding the impairments in the Harbor. Any one of these measurements taken individually would fail to provide a complete and adequate understanding of the impairments.</p> | <p>Comment noted.</p> |
| 6.11 | HTB | 9/19/05 | <p>In addition, the draft Staff Report alludes to the fact that ambient water quality sampling may occur in other areas of the Harbor, but the extent of this additional requirement is unclear. Is the Regional board requiring Harbor-wide monitoring of water quality only? Please clarify the monitoring program and explain the rationale for not including sediment and fish tissue monitoring in the ambient Harbor-wide program. There is a high likelihood that other basins within Marina del Rey Harbor are impaired by toxic pollutants Table 1-3 of the draft TMDL Staff Report shows that there are similar land uses in most of the Marina del Rey sub-watersheds. Therefore, it is probable that many of the types of pollution sources for Basins D, E, and F also impact</p> | <p>Ambient water quality monitoring of fish tissue, water and sediment will be conducted throughout the harbor. Details of the monitoring program will be addressed during development of the monitoring plan.</p> |

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| | | | the other basins. A comprehensive Harbor-wide ambient monitoring program, using the triad approach, must be undertaken to adequately assess potential impairments in other Harbor basins. | |
| 6.12 | HTB | 9/19/05 | <p>The Regional Board Should Require, Not Recommend, Necessary Special Studies</p> <p>As noted above, special studies are only “recommended” in the draft TMDL. There is no guarantee that permittees will pursue these suggestions. Yet several of the studies are necessary for understanding source contributions and protecting beneficial uses.</p> | The TMDL has been revised to clarify which special studies are required. |
| 6.13 | HTB | 9/19/05 | <p>Absent Strong Evidence of No Impairment, TMDLs Should Be Established for Chlordane, Total DDT, and Dieldrin in Fish Tissue</p> <p>The Marina del Rey Harbor Back Basins are designated on the 303(d) list as impaired by chlordane, total DDT, and dieldrin in fish tissue and the Consent Decree requires that TMDLs be developed for these contaminants. 1999 EPA Consent Decree. Yet the draft TMDL Staff Report states that the Regional Board will not develop TMDLs for these constituents based on more recent data. Pursuant to the Consent Decree, the agencies must give Heal the Bay and BayKeeper advance notice that they are not going to do these TMDLs. <i>Id.</i> In addition, the Regional Board must prepare a detailed report describing the analysis and conclusions that led to this decision, and negotiate</p> | <p>The fish tissue listings were removed based on data indicating a lack of impairment (see section 2.2.2 of the staff report.</p> <p>Paragraph 8 of the Consent Decree provides that TMDLs need not be completed for specific waterbody pollutant combinations if the State or EPA determine that TMDLs are not needed for these combinations, consistent with the requirements of Section 303(d).</p> <p>Paragraph 9 of the consent decree describes procedures for giving notice that a TMDL is not needed. The draft Staff Report of the TMDL provides the notice as provided for in paragraph 9 of the TMDL.</p> |

**Responsiveness Summary - Marina Del Rey Toxic Pollutants
Comment Due Date: September 19, 2005**

| No. | Author | Date | Comment | Response |
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| | | | <p>with the other parties regarding the contaminants. <i>Id.</i> This has not been done here. This comprises a violation of the Consent Decree.</p> <p>In addition, the data set used by the Regional Board to make this decision is very small. And at least for DDT, values in fish tissue seem to be increasing over time, and are currently just below the guidelines. It is not responsible for the Regional Board to make a delisting decision under these facts. At a minimum, before this TMDL is approved or these contaminants are considered delisted or not needed, the Regional Board should gather and assess MDR fish tissue data from all available sources.</p> | |